

EXHIBIT F

APPROVED this 8th day of April 19 85

Carver A. Alexander
GOVERNOR

CHAPTER NO. 140

SENATE BILL NO. 100

By Henry

Substituted for: House Bill No. 637

By Murray

AN ACT Relative to the probate and administration of estates and trusts, to amend Tennessee Code Annotated, Titles 30, 31, 34 and 35, and Sections 1-3-105, 16-16-201, 18-6-106, and 26-2-109, and to repeal Tennessee Code Annotated, Sections 16-16-203, 20-5-109, 30-1-206, 30-2-615 and 35-50-113.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
TENNESSEE:

SECTION 1. Tennessee Code Annotated, Sections 16-16-203, 20-5-109, 30-1-206, 30-2-615 and 35-50-113 are repealed.

SECTION 2. Tennessee Code Annotated, Section 1-3-105, is amended by adding a new definition to be appropriately numbered in alphabetical sequence as follows:

"Probate Court" means the court having jurisdiction over the administration of the estates of decedents.

SECTION 3. Tennessee Code Annotated, Section 16-16-201, is amended as follows:

a. In subsection (a), by inserting immediately after the word "estates", wherever it appears, the following:

of every nature including the estates of decedents and of wards under guardianships or conservatorships,

b. In subsection (b), by inserting in the first sentence immediately after the words "letters testamentary," the words "letters of guardianship and letters of conservatorship,"; by inserting immediately after the words "appoint executors and administrators," the words "appoint guardians and conservators,"; by inserting immediately after the word "homestead," the words "preside over proceedings for the elective share,"; and by adding immediately before the last sentence the following new sentence:

All accounts, settlements and final orders of distribution shall be made subject to the approval of the chancellor.

SECTION 4. Tennessee Code Annotated, Section 18-6-106, is amended by deleting the first three words "The county clerk" and by substituting instead the words "The clerk of the court having probate jurisdiction" and is amended further by deleting in listing (7) the word and figure "eighteen (18)" and by substituting instead the word and figure "fifteen (15)".

SECTION 5. Tennessee Code Annotated, Section 26-2-109, is amended by changing the semicolon after the words "spouse or children" to a period and by deleting all words thereafter.

SECTION 6. Tennessee Code Annotated, Section 30-1-201, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The clerk shall not require a bond of the personal representative before issuing letters testamentary or letters of administration if:

the decedent by will excuses the personal representative from making bond; or

the personal representative and the sole beneficiary of the estate are the same person and the court approves; or

all of the beneficiaries of the estate are adults and all of them consent in writing to the personal representative's serving without bond and the court approves; or

the personal representative is a bank which is excused from the requirements of bond by Section 45-2-1005.

If the preceding exemptions from making bond do not apply, the clerk, before issuing the letters, shall take from the personal representative a bond payable to the state, with two or more sufficient sureties or one corporate surety, in an amount determined by the court. If bond is required, the bond shall not be less than the value of the estate of the decedent subject to administration nor more than double the value of the estate and the court may increase or decrease the amount at any time by order.

(b) Any interested person may petition the court to suggest and show that the personal representative is wasting, or likely to waste, the estate. In such event, the court may require bond in an amount it deems advisable.

SECTION 7. Tennessee Code Annotated, Section 30-1-207, is amended by deleting the word "executor" or "executors" wherever they appear and by substituting instead the words "personal representative" or "personal representatives".

SECTION 8. Tennessee Code Annotated, Section 30-1-208, is amended by deleting the words "executor or administrator" and by substituting instead the words "personal representative".

SECTION 9. Tennessee Code Annotated, Section 30-2-101, is amended by deleting all of the words in subsection (a)(1) appearing before the colon and by inserting instead the following:

The surviving spouse, or if none, the unmarried minor children of an intestate decedent or the surviving spouse of the testate decedent who elects to take against the decedent's will is entitled absolutely to the following property of the estate without regard to its value:

SECTION 10. Tennessee Code Annotated, Section 30-2-102, is amended as follows:

a. In subsection (a), by deleting the words "a distributive share" and by substituting instead the words "an elective share" and also by deleting the words "a spouse who dissents from" and by substituting instead the words "a surviving spouse who elects to take against".

b. In subsection (f), by deleting the first sentence and by substituting instead the following:

If the allowance set by the court as provided in this section is not satisfactory to the surviving spouse electing against the decedent's will, the surviving spouse of an intestate decedent, the unmarried minor children of an intestate decedent or the personal representative, then appeal may be made to the appropriate court in accordance with Section 30-2-609.

SECTION 11. Tennessee Code Annotated, Section 30-2-209, is amended by changing the period at the end of the section to a comma and adding the following:

or if the court deems it more desirable and practical, it may order the payment of five thousand dollars (\$5,000) in cash or other personal property outright and in fee to the surviving spouse, if any, otherwise to the minor children, if any, in lieu of all other homestead rights in the realty of the deceased.

SECTION 12. Tennessee Code Annotated, Section 30-2-303, is amended by deleting the section in its entirety and by substituting instead the following:

Unless otherwise directed by the will and unless the specific personal property is the subject of a bequest, the personal representative of a testate or intestate estate may, in his discretion, sell the personal property of the decedent at public or private sale, for cash or on terms, in such manner and for such prices as the personal representative may deem advisable; but the personal representative shall not make a private sale to himself, to business associates, to members of his immediate family or to their agents without court approval or the written consent of all residuary distributees of the estate. The personal representative may employ persons or firms to conduct the sale and shall receive credit for all reasonable expenses of the sale in the final accounting.

SECTION 13. Tennessee Code Annotated, Section 30-2-307, is amended

by deleting the word "duplicate", wherever it appears, in subsections (a) and (c), and by substituting instead the word "triplicate".

SECTION 14. Tennessee Code Annotated, Section 30-2-308, is amended by deleting the word "duplicate", wherever it appears, and by substituting instead the word "triplicate".

SECTION 15. Tennessee Code Annotated, Section 30-2-313, is amended by inserting in subsection (a) immediately after the words "personal representative" the words "and the attorney of record", and also by deleting from subsection (a) the word "him" and by substituting instead the word "each".

SECTION 16. Tennessee Code Annotated, Section 30-2-314, is amended by inserting in subsection (a), immediately after the sentence ending with the word "administered.", the following new sentence:

Each exception shall include a reasonably detailed explanation of the ground or grounds upon which the person making such exception intends to rely.

SECTION 17. Tennessee Code Annotated, Section 30-2-315, is amended by deleting from subsection (a)(1) the word and figure "eleven (11)" and by substituting instead the word and figure "eight (8)"; also by deleting the words "probate court" before the word "clerk"; and also by deleting from subsection (a)(2) the word "probate".

SECTION 18. Tennessee Code Annotated, Section 30-2-406, is amended by deleting the words "prefer against" and by substituting instead the words "proceed against"; also by deleting the word "petition", wherever it appears, and by substituting instead the word "complaint"; and also by deleting the words "circuit, chancery or probate court" and by substituting instead the words "court having probate jurisdiction".

SECTION 19. Tennessee Code Annotated, Section 30-2-601, is amended by deleting the section in its entirety and by substituting instead the following:

(a) Within fifteen (15) months from the date of qualification, the personal representative shall make an accounting with the clerk of the court exercising probate jurisdiction in the county of the estate. After the first accounting and until the estate is fully administered, the personal representative shall make further accountings annually from the date of the first accounting. Such accountings shall state all receipts, disbursements and distributions of principal and income for the accounting period and the remaining assets held in the estate and shall be verified by the oath of the personal representative before the clerk or any person authorized by law to administer oaths in such cases. For good cause shown to the court, it may extend the time for filing the accountings. However, detailed accountings of solvent estates may be waived if:

(1) The decedent by his will waived the requirement for the personal representative to make court accountings of the estate; or

(2) All of the distributees of the residue file with the

clerk of the court acknowledged waivers excusing the personal representative from filing all court accountings.

(b) If all court accountings are waived by the decedent's will or by the distributees as above provided and notwithstanding any other provisions of probate law to the contrary, the personal representative and the distributees of the residue of a solvent estate, in which all legitimate claims against such estate have been satisfied, may file a sworn statement with the clerk of the court at any time after the period for creditors to file claims against the estate has expired, to state substantially as follows:

(1) That the personal representative has properly administered the estate, has paid or settled all claims which were lawfully presented, has paid all expenses of administration, has filed with the clerk of the court exercising probate jurisdiction the final receipt and release from the Tennessee Department of Revenue evidencing payment of all Tennessee inheritance and/or estate tax due from the estate, has distributed the estate according to the will and obtained and filed receipts for specific bequests or has distributed the estate according to the laws of intestate succession; and

(2) That the distributees of the residue acknowledge that the estate has been properly distributed to them.

(c) The filing of such sworn statement, and without the requirement of notice of an accounting by the clerk, shall relieve the personal representative and all such distributees of any requirement of law or rule to file a detailed statement, accounting or receipt of any property, money or other items received from the estate. The provisions of this section shall not apply unless all distributees of the residue of an estate file such sworn statement in lieu of a more detailed accounting that may otherwise be required.

SECTION 20. Tennessee Code Annotated, Section 30-2-607, is amended by deleting the same in its entirety and by substituting instead the following:

Any person interested in the estate may except to the account within a thirty (30) day period after it has been stated by the clerk, and, if dissatisfied with the clerk's decision on the exceptions, may within an additional thirty (30) day period appeal to the court. The clerk shall, within five (5) days after the filing of exceptions to the clerk's decision, mail copies of the exceptions to the personal representative and his attorney of record.

SECTION 21. Tennessee Code Annotated, Section 30-2-609, is amended by deleting the section in its entirety and by substituting instead the following:

When the court having probate jurisdiction finally settles an account, any persons adversely affected by the settlement may appeal from the judgment to the Court of Appeals or the Supreme Court, as the case may be; unless the legislation establishing the probate court provides the appeal will be to a trial court of

general jurisdiction, in which case the judge of the trial court will hear the matter de novo.

SECTION 22. Tennessee Code Annotated, Section 30-2-709, is amended by deleting the words "executor or administrator out of his own individual moneys" and by substituting instead the words "personal representative out of the estate".

SECTION 23. Tennessee Code Annotated, Section 30-3-102, is amended by deleting in its entirety subsection (c) and by substituting instead the following:

If the clerks of the respective courts of record and/or the personal representatives have any funds belonging to such absentee who, upon the order of the court, is determined to be dead, such funds shall be distributed according to law as of the date of death of the absentee as determined by the court. The validity and effect of the distribution of the property shall be determined by the court having probate jurisdiction administering the estate.

SECTION 24. Tennessee Code Annotated, Section 30-3-210, is amended as follows:

a. In subsection (b), by deleting the words "executor or administrator" wherever they appear, and by substituting instead the words "personal representative".

b. In subsection (c), by deleting the word "returns", wherever it appears, and by substituting instead the word "accountings", and also by deleting in the last sentence the word "circuit".

SECTION 25. Tennessee Code Annotated, Section 30-5-104, is amended by deleting the words "probate court" and by substituting instead the words "court having probate jurisdiction", also by deleting the words "executor or administrator" and by substituting instead the words "personal representative", and also by adding at the end the following:

The filing period for claims filed herein shall not extend or avoid the limitation on time for filing claims provided in Section 30-2-310.

SECTION 26. Tennessee Code Annotated, Section 30-1-104, is amended by adding an introductory phrase at the beginning of paragraph (a) and changing the word "The" which immediately follows to "the", as follows:

Unless the homestead has been converted to cash by order of the court pursuant to Section 30-2-209, and distributed outright and in fee,

SECTION 27. Tennessee Code Annotated, Section 31-2-103, is amended by inserting immediately after the first sentence in subsection (a) the following:

The real property of a testate decedent vests immediately upon death in the beneficiaries named in the will, unless the will contains a specific provision directing the real property to be

administered as part of the estate subject to the control of the personal representative.

And by changing the period at the end of subsection (a) to a comma and by adding immediately thereafter the following:

and the property of a testate decedent to the distributees as prescribed in decedent's will.

And by deleting in its entirety subsection (b).

SECTION 28. Tennessee Code Annotated, Section 31-4-101, is amended by deleting the section in its entirety and by substituting instead the following:

(a) A decedent's surviving spouse has the right to elect to take an elective share. The elective share is one-third (1/3) of the decedent's net estate as defined in subsection (b) hereof. The right to elect an elective share is available to the surviving spouse of an intestate decedent and a testate decedent if the surviving spouse elects against the decedent's will. When the elective share is determined, it is exempt from the unsecured debts of the decedent incurred after April 1, 1977. In determining the elective share, it is not reduced by any estate or inheritance taxes.

(b) The net estate includes all of the decedent's real and personal property subject to disposition under the terms of the decedent's will or the laws of intestate succession reduced by funeral and administration expenses, homestead, exemptions and year's support.

SECTION 29. Tennessee Code Annotated, Section 31-4-102, is amended by deleting in subsection (a)(1) the words "probate of the decedent's will" and by substituting instead the words "appointment of the personal representative".

SECTION 30. Tennessee Code Annotated, Section 34-1-107, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

Unless otherwise provided by a will, when the personal representative has a legacy due to a minor, not exceeding ten thousand dollars (\$10,000) in cash or other personal property, if the minor does not have a regular guardian, the court having probate jurisdiction may order such disposition of the legacy for the benefit of the minor as will in its judgment best promote the interest of the minor.

SECTION 31. Tennessee Code Annotated, Section 34-3-112, is amended as follows:

a. By deleting the words "chancery court", wherever it appears, and by substituting instead the words "court of competent jurisdiction";

b. By deleting the word "chancellor", wherever it appears, and by substituting instead the word "judge";

c. By deleting the words "or trustee", "or beneficiary", "or beneficiary's" wherever they appear; and

d. By deleting in the first paragraph the words and figures "where the estate does not exceed two thousand dollars (\$2,000) in value".

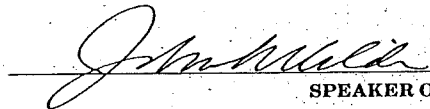
SECTION 32. Tennessee Code Annotated, Section 35-50-107, is amended by deleting subsection (b) in its entirety and revising the numbers and letters of the remaining subsections accordingly.

SECTION 33. Tennessee Code Annotated, Section 35-50-112, is amended by inserting immediately after the words "United States" the words "or under the laws of the State of Tennessee,".

SECTION 34. If any provision of this act or the application thereof to any person or circumstance is held invalid; such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

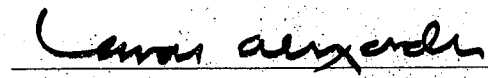
SECTION 35. This act shall take effect at 12:01 a.m., October 1, 1985, the public welfare requiring it.

PASSED: March 28, 1985


SPEAKER OF THE SENATE


SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED this 8th day of April 19 85


GOVERNOR